

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.846 of 2016

Arising out of PS.Case No. - Year- Thana - District- MUZAFFARPUR

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Shishir Kumar, Son of Manibhushan Prasad Singh, resident of Village-
Mahmadpur, Police Station- Sakra, District Muzaffarpur + at present resident of Q.
No. 575/01 Madhav Purana, Delhi Road, Merut.

.... Petitioner/s

Versus

Anupma Anand, D/o Madan Mohan Thakur, W/o Shishir Kumar at present resident
of Village Dwarikapur, Police Station- Sakra, District- Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rupak Kumar, Advocate.

For the Respondent/s : Mr. Manoj Kumarr Sinha, Advocate.

Mr. Bajesh Kumar Pandey, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
ORAL JUDGMENT

Date: 19-10-2016

The challenge in the present petition is to an order
passed by the learned Principal Judge, Family Court, Muzaffarpur on
28th of May, 2013 in Miscellaneous Case No. 156 of 2012 whereby,
Rs. 15,000/- per month was awarded as interim maintenance.

2. Learned counsel for the petitioner contends that such
order of interim maintenance was passed without giving any
opportunity of hearing to the petitioner and that his salary is Rs.
35,000/- per month, therefore, interim maintenance of Rs. 15,000/- is

highly disproportionate to the income. Reliance is placed upon salary certificate Annexure-8/1. It is also contended that petitioner is paying installments of loan taken for the marriage of his sister and, therefore, the amount of interim maintenance awarded is quite excessive.

3. I have heard learned counsel for the parties and find no merit in the present petition.

4. The order passed by the learned Principal Judge, Family Court is that of grant of interim maintenance. It is open to the petitioner to approach the Family Court for modification of the order with such documents as he may consider appropriate but veracity of such documents cannot be commented upon in the present writ petition. It may be noticed that Annexure-8/1 is a pay-slip which does not mention the month it relates to. However, Annexure-8 shows that in the month of June, 2012, the petitioner was paid a total salary of Rs. 50,577/- including the amount of Income Tax etc. by the authority/employer.

5. Therefore, to rely upon the document (Annexure-8/1) to contend that the salary of the petitioner was Rs. 35,000/- per month when he was in such organization on 15th of October, 2012 *prima facie* seems to be improbable. However, since the petitioner has produced such documents before this Court for the first time, therefore, no final opinion is expressed in this matter. Similarly, as to

whether, the petitioner is paying instalments of loan taken by him for marriage of his sister is not a relevant factor as the maintenance to the wife is to be granted keeping in view income of her husband and the voluntary expenses cannot be taken into account. If such expense is to be allowed, a person can spend entire salary to repay loan taken by him for luxuries of life and then take plea that his carry home salary does not permit any maintenance to the wife.

6. Thus, it shall be open to the petitioner to appear before the Family Court and to seek modification of the interim maintenance granted in accordance with law. No interference is called for in the present petition.

7. The writ application is, thus, dismissed.

(Hemant Gupta, J)

P.K.P.

AFR/NAFR	A.F.R.
CAV DATE	N.A.
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